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OCT 31 2005

OFFICE OF PETITIONS

In re Application of :
Daryle Lee Petersen : DECISION ON APPLICATION
Application No. 09/945,471 : FOR
Filed: August 30, 2001 : PATENT TERM ADJUSTMENT
Atty Docket No. 11738.00029 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed June 16, 2005. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from sixty (60) days to one hundred twenty-five (125) days.

The application for patent term adjustment is **DISMISSED**.

On March 23, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 60 days. The instant application for patent term adjustment was timely filed prior to payment of the issue fee on June 17, 2005. Applicant disputes a reduction of 65 days associated with the filing of a terminal disclaimer after the filing of a response. Applicant contends that the terminal disclaimer was requested by the examiner and thus, no reduction is warranted.

Applicant acknowledges that the patent issuing from this application is subject to a terminal disclaimer.

37 C.F.R. § 1.704(c)(8) provides that:

Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly

requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

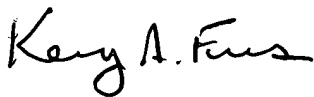
Applicant's assertion is not supported, and thus, is not persuasive. The record does not support a conclusion that the terminal disclaimer was expressly requested by the examiner within the meaning of § 1.704(c)(8). Accordingly, the period of reduction was properly calculated as 65 days, the number of days in the period beginning on December 14, 2004 and ending on February 16, 2005.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is sixty (60) days.

Receipt of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded to the Office of Patent Publication for processing into a patent. The patent term adjustment indicated in the patent will include any additional days accrued for Office delay in issuing the patent after payment of the Issue Fee and satisfaction of all outstanding requirements.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.



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